

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 7TH FEBRUARY 2007 / 18TH MAGHA 1928

W.P.(C).No. 4124 of 2007(N)

PETITIONER:

JANARDHANAN,
MANGALASSERIYIL VEETIL, ERUMAKKUZHY MURI,
PALAMEL VILLAGE.

BY ADV. SRI.R.REJI

RESPONDENT:

VILASINI,
KALLIKKATTU PUTHEN VEETIL, EDAKKUNNAM MURI,
NOORNAD VILLAGE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.P.BALACHANDRAN, J.

W.P.(C)NO.4124 OF 2007

Dated this the 7th day of February 2007

JUDGEMENT

The petitioner is the judgment debtor in O.S.216/93. It is submitted by counsel for the petitioner that in O.S.216/93 a decree is passed in favour of the respondent for recovery of the scheduled property from the possession of the petitioner, that A.S.89/96 filed before the District Court was dismissed as early as on 20-10-2003; that a second appeal is filed before this court and the same is pending and therefore the execution court should not have ordered delivery as has been done vide Ext.P4 order. It is also his contention that in the execution petition, there is no description of the properties to be delivered over and the resurvey numbers are also not mentioned in the execution petition and therefore the property is not identifiable.

The contention that execution of the decree cannot be had in view of the pendency of the second appeal before this court is not tenable and is repelled. The further contention that boundaries of the scheduled properties and resurvey numbers are not mentioned in the execution petition and hence the

property cannot be identified is also baseless, as what is to be delivered over as per the decree is the decree schedule property the description of which will be contained in the schedule to the decree and it need not be described with the details in the execution petition. The objections were rightly repelled by the execution court vide Ext.P4 order. There is no merit in this writ petition and this writ petition is dismissed.

K.P.BALACHANDRAN, JUDGE

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